IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case.

W.P. No. 504 (S/S) of 2004

Date of decision :- 27-10-2006

~~**A.F.R. (Approved for reporting)**~~

Not approved for reporting

Date :- 27-10-2006 Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

HIGH COURT OF UTTARANCHAL, AT NAINITAL

Write Petition No.504 (S/S) of 2004

Sri Sudhakar Sharma
S/o Sri Madhu Lal Sharma
Assistant Teacher, Primary School
Chiriyapur, District Haridwar
& 23 others .....Petitioners

Versus

1. State of Uttaranchal through
   Secretary, Education (Basic),
   Uttaranchal Shasan, Dehradun
   Dehradun
2. District Basic Education Officer, Haridwar
3. Additional Education Director (Basic)
   Garhwal Mandal, Pauri .....Respondents

Dated :-27th October, 2006

Mr. I.P. Gairola learned Advocate for petitioners.
Mr. N.P. Sah learned Standing Counsel.

Hon'ble J. C. S.Rawat, J.

1. By means of this writ petition under section 226 of the Constitution of India, the petitioners have sought the following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari to quash the order of termination dated 1.3.2004 (Annexure-87).

(ii) Issue a writ order or direction in the nature of mandamus commanding the respondents not to interfere in the peaceful service and working of the petitioners in their concerned schools.

(iii) Issue a writ order or direction in the nature of mandamus permitting the petitioners to be continued in their services.

(iv) Issue a writ order or direction in the nature of mandamus commanding the respondents to pay the salary of the petitioners since the date of joining of the petitioners.

(v) Issue a writ order or direction, which this Hon'ble Court may deem fit and proper in view of the circumstances of the case.

(vi) To award the costs of the petition in favour of the petitioners.

2. The petitioners' case is that they were appointed on 21.12.2002 as Assistant Teacher by the respondent no.2. The petitioners were given appointments on the basis of the training of BTC Training Certificate Course. The appointment letters were issued to the petitioners by the respondent no.2 vide order dated 21.12.2002. In pursuance of the appointment letter, the petitioners joined their services. At the time of joining of their services, all the petitioners submitted their original documents in the office of respondent no.2 regarding their educational qualification including the marksheet of Basic Training Certificate. The respondents did not return the Basic Training Certificate to the petitioners. The respondent no.2 again asked the petitioners to deposit their original marksheet. It has been further alleged that the respondent no.2 is unnecessarily threatening the petitioners for removing them from their services. THE petitioners made representations before the respondents and during the pendency of their representations a writ petition No.68/2003 (S/S) was filed before this Court. This Court was of the view that the petition was premature as the representations of the

petitioners were pending for consideration. This court vide order dated 28.03.2003 directed the respondents to decide the representation of the petitioner after giving them full opportunity of hearing. Thereafter, the services of the petitioners were terminated by the impugned order without affording any opportunity. Feeling aggrieved by this, the present petition has been filed.

3. The respondents have field the counter affidavit in which it has been alleged that the petitioners had never submitted their original documents and their second copies of marksheet. The Registrar, Departmental Examination, U.P. Allahabad had refused to receive the certificate presented by the petitioners because the certificate submitted by the petitioners are quite different to those certificates which are issued from the office of the Principal, District Institute of Education and Training, Roorkee. It was further pleaded that it was revealed that they never studied in the Institution as per record.

4. During the pendency of this petition, learned counsel for the petitioners has filed a supplementary affidavit dated 24.08.2006 that the petitioners have obtained original (second copy) marksheet of B.T.C. examination. The petitioners have visited the office of respondent no.2 to submit the aforesaid document, but the respondent no.2 has refused to accept the same. It has been further alleged that the respondents have got verified the second copy of the marksheet issued by the Registrar, Departmental Examination, U.P. Allahabad and therefore the genuinely of the marksheets of the petitioners have already been attested.

5. In these circumstances, it would be just and proper to direct the petitioners to make their representations before the authority concerned alongwith the second copy of the original marksheet. The authority concerned shall decide the representations of the petitioners within a period of three months from the date of receipt of the representations of the petitioners.

6. The petition is disposed of accordingly. The parties shall bear their own costs.

(J.C.S.Rawat, J)

Dated 27.10.2006

LSR